

REMARKS

Reconsideration is requested.

Claim 3 has been canceled and the details of the same added to claim 1, to advance prosecution. As noted in the applicants Request of May 19, 2005, the applicants understand from page 7 of the Office Action dated May 11, 2005, that claims 3-5 and 7-9 contain allowable subject matter. The claims have been amended, without prejudice, to advance prosecution. Claims 18-32 have been added and find support throughout the specification. No new matter has been added. Claims 1, 2 and 4-32 are pending.

The art cited in the attached is additional art of record in a copending application Serial No. 09/731,970 which is being examined by the above-identified Examiner. A copy of the pending claims of the copending application is attached. The copending application was published as U.S. Patent Application Publication No. US-2001-0017936-A1. The same is listed on the attached PTO 149 Form and the Examiner is requested to confirm consideration of the attached claims, art and copending application.

The Section 103 rejection of claims 1, 2, 6 and 10-17 over Courtois et al (British Journal of Dermatology, Vol. 134, pp 47-54 (1996)), is believed to be obviated by the above amendments. Again, the Examiner is requested to confirm that claims 3-5 and 7-19 have not been rejected over Courtois even though the rejection at page 3 of the Office Action dated May 11, 2005, suggests as much which is believed to be contrary to the statement at page 7 of the Office Action that claims 3-5 and 7-9 are objected to as being dependent upon a rejected base claim that would be allowable if rewritten in

independent form including all the limitations of the base claim and in any intervening claims. Withdrawal of the Section 103 rejection is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned if anything further is required in this regard.


For completeness, the applicants note the Examiner's comments with regard to the previously-submitted evidentiary Declarations. The applicants understand the Examiner to be of the opinion that the Declarations were not persuasive of prior invention because the Examiner is understood to believe that Rule 131 requires that Declarations submitted pursuant to the same "state" that either the evidence establishes that "reduction of practice" or "conception" is being demonstrated. The applicants note however, again for completeness, that Rule 131 only requires that a Declaration of prior invention provides a "showing of facts". The applicants submit that it is for the Examiner and/or the Board and/or Courts to determine, from the showing of facts, if the evidentiary Declaration demonstrates a reduction of practice or conception coupled with diligence. That is, the Examiner and/or Board and/or Courts are to determine if a Declaration submitted pursuant to Rule 131 provides a showing of facts which are, in character and weight, sufficient to establish prior reduction of practice or conception coupled with diligence. The Examiner's apparent requirement for such a "statement" of prior reduction or conception coupled with diligence from one of the declarants of record is submitted, with due respect, to be inappropriate not required by the rules. The declarants are believed to be required to provide a factual showing as opposed to a statement of legal analysis and/or conclusion.

LOUSSOUARN et al.
Appl. No. 09/731,969
June 13, 2005

The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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